

Perdue Farms Incorporated Comments on Chesapeake Bay TMDL

November 8, 2010

Water Docket
Environmental Protection Agency
Mailcode: 28221T
1200 Pennsylvania Ave, NW.
Washington, DC 20460

Re: Comments on Draft Chesapeake Bay TMDL; Docket ID No. EPA-R03- OW-2010-0736

Dear Sir or Madam:

EPA announced in the September 22, 2010 Federal Register the availability of the Draft TMDL and request for review and public comment on the Chesapeake Bay-wide Total Maximum Daily Load (TMDL) for nutrients and sediment for all impaired segments in the tidal portion of the Chesapeake Bay.

These comments are submitted by **Perdue Farms Incorporated** in response to EPA's solicitation for comments on the Draft Total Maximum Daily Load (TMDL) for the Chesapeake Bay. 75 FR 57776

Perdue Farms Incorporated owns and operates facilities that produce or contribute to the production of poultry products. We provides safe and affordable food for Americans all across the United States. Some of these facilities are located on or near the waters of the United States, and some are located within the 64,000 square mile Chesapeake Bay watershed.

Perdue Farms Incorporated would like to voice our support for the detailed comments on the Draft Total Maximum Daily Load (TMDL) for the Chesapeake Bay. 75 FR 57776 submitted by U.S. Poultry and Egg Association (USPOULTRY), National Chicken Council (NCC) and National Turkey Federation (NTF) on behalf of the poultry industry.

Perdue Farms Incorporated is particularly concerned that the draft TMDL exceeds the authority granted to the EPA by congress through the Clean Water Act. The Act is very clear; it is the responsibility of the state to establish TMDLs. EPA's role is to review and approve the TMDLs developed by the state. If EPA disapproves the TMDL, then EPA must establish the TMDL. The statute does not provide authority for EPA to conduct a TMDL at the request of the state. Nor does it provide the authority for EPA to do part of the TMDL while forcing the state via threats of "consequences" to develop watershed implementation plans.

Further concern lies with EPA's failure to provide complete documentation so that a full and complete review of the tools and models used to develop the TMDL can be performed. In many locations the draft TMDL states that technical documentation is provided via a URL. Unfortunately, in many cases the links provided are incorrect. For instance, the draft TMDL (p. 1-2) states that the technical documentation for each model is provided via a URL in Section 5:

Technical documentation for each of the Chesapeake Bay TMDL models – airshed, land change, Scenario Builder, SPARROW, watershed, Bay water quality/sediment transport, oyster filter feeder and menhaden filter feeder—are provided via URL in Section 5.

However, the links provided in the draft TMDL to the Scenario Builder documentation are incorrect. It is not possible for the reader to locate the Scenario Builder documentation using the links provided in the draft TMDL document. For example, on p. 4-31 of the draft TMDL the following is stated:

Additional information related to Scenario Builder and its application in Bay TMDL development (USEPA 2010d) is at <http://www.chesapeakebay.net/modeling.aspx?menuitem=19303>

The link provided [accessed October 27, 2010] does not take the reader to the referenced Scenario Builder documentation. The link provided directs the reader to the Chesapeake Bay Program “Modeling” web page where there is no mention or link to the Scenario Builder documentation referenced in the draft TMDL.

Although **Perdue Farms Incorporated** supports the goals and objectives of the Chesapeake Bay restoration, we have serious concerns regarding the assumptions and data that are used in developing the TMDL and whether EPA has the authority to take the approach that it has. Thank you for the opportunity to submit these comments.